


FILED

Clerk
District Court

APR 10 2025

for the Northern Mariana Islands

By  (Deputy Clerk)

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

TRAVIS THORNTON,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 1:24-cv-00015

**ORDER DISMISSING ACTION
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE 41(a)(2)
AGAINST THE UNITED STATES
AND KBR SERVICES, LLC**

UNITED STATES OF AMERICA,

Third-Party Plaintiff,

v.

KBR SERVICES, LLC,

Third-Party Defendant.

At the hearing on April 10, 2025, the Court GRANTED Plaintiff Travis Thornton and Defendant/Third-Party Plaintiff United States of America's Stipulation of Dismissal without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) ("Stip.," ECF No. 29) and DENIED Third-Party Defendant KBR Services, LLC's¹ ("KBR Services") request for attorney's fees and costs. (Mins., ECF No. 40.)

The United States and Thornton stipulated to dismiss this case without prejudice in accordance with Rule 41(a)(2). (Stip. 1.) In consideration for dismissal, the United States and Thornton entered into a tolling agreement that was filed with the Court. (ECF No. 29-1.) Rule

¹ In this action, the United States impleaded KBR Services through filing an Amended Third-Party Complaint pursuant to Rule 14(c): "The third-party plaintiff may demand judgment in the plaintiff's favor against the third-party defendant." (See U.S. Am. Third-Party Compl. ¶¶ 22-24, ECF No. 18.)

1 41(a)(2) permits an action to “be dismissed at the plaintiff’s request only by court order, on terms
2 that the court considers proper.” “A district court should grant a motion for voluntary dismissal
3 under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as
4 a result.” *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001) (footnote omitted) (citing *Waller*
5 *v. Fin. Corp. of Am.*, 828 F.2d 579, 583 (9th Cir. 1987)). Moreover, “[t]he purpose of the rule is
6 to permit a plaintiff to dismiss an action *without prejudice* so long as the defendant will not be
7 prejudiced.” *Stevedoring Servs. of Am. v. Armilla Intern. B.V.*, 889 F.2d 919, 921 (9th Cir. 1989)
8 (emphasis added). Here, KBR Services was unable to show it would suffer some plain legal
9 prejudice because of the dismissal.² For this reason the Court granted Thornton and the United
10 States’ Stipulation of Dismissal without prejudice pursuant to Rule 41(a)(2).
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12 Turning to KBR Services’ request for attorney’s fees and costs, to determine if the Court
13 should award costs after a voluntary dismissal without prejudice, “courts generally consider the
14 following factors: (1) any excessive and duplicative expense of a second litigation; (2) the effort
15 and expense incurred by a defendant in preparing for trial; (3) the extent to which the litigation
16 has progressed; and (4) the plaintiff’s diligence in moving to dismiss.” *Williams v. Peralta Cmty.*
17 *Coll. Dist.*, 227 F.R.D. 538, 540 (N.D. Cal. 2005) (citing 8 Moore’s Fed. Prac.–Civ. §
18 41.40[10][d][i]). Given these considerations, the Court denied KBR Services’ request to award
19 attorney’s fees and costs. Although there is another litigation initiated by Thornton in the State
20 of Texas, it is not against KBR Services. Procedurally, KBR Services has not incurred significant
21 costs in litigating this suit as Thornton sought dismissal before KBR Services filed an answer.
22 Finally, as determined at the hearing, Thornton was diligent in reaching out to counsel for KBR
23 Services to file a dismissal of this action, but counsel for KBR Services did not respond.
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28 ² In fact, KBR Services sought dismissal in its own Motion to Dismiss.

1 Accordingly, the Court does not condition this dismissal without prejudice on the award of
2 attorney's fees and costs to KBR Services.

3 For these reasons, the Court granted the Stipulation of Dismissal and dismissed
4 Thornton's case against the United States without prejudice. Because the main action is
5 dismissed, all causes of action by Thornton against KBR Services are also dismissed without
6 prejudice. Given the dismissal, all pending motions are mooted. Finally, the Clerk is directed to
7 close this case.
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9 IT IS SO ORDERED this 10th day of April 2025.

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12 RAMONA V. MANGLONA
13 Chief Judge
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